

REMARKS

Applicant would like to thank the Examiner for the thorough review of the present application. As discussed in detail below, the present claims include recitations that patentably distinguish the claimed invention over the cited references, taken individually or in combination. Based upon the following remarks, Applicant respectfully requests reconsideration of the present application and allowance of the pending claims.

Claim Status

Claims 1 -28 are currently pending in the present application.

Applicant kindly requests cancellation of claims 7-9, 14-17, 19, and 23-25.

Claims 1-6, 10-13, 18, 20-22 and 26-28 have been amended to overcome rejections, add clarity and particularly point out and distinctly claim the subject matter of the present invention.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication No. 2003/0056012, published in the name of Modeste et al., (hereinafter, the Modeste publication) in view of United States Patent No. 7,127,679, issued in the name of Cohen (hereinafter, the Cohen patent). Applicant respectfully submits that these rejections are overcome by the following arguments and in light of the amendments made to the claims.

The Cohen Patent Does Not Teach or Suggest Determining Whether a New Control Menu Exists by Accessing the Internet according to a Set Period

Independent claims 1, 10, 18, 20, 26 and 27 have been amended to specifically require determining whether a new control menu exists by accessing the Internet according to a set period. The “set period” provides for automatically accessing the Internet at a predetermined interval to determine whether a new control menu exists. Support for this limitation can be found at paragraphs [0047] – [0048] of the application as filed (paragraphs [0050] – [0051] of the published application), which states, “ Referring to FIG. 3, a set period is checked, step (S213). The television set is periodically connected to the server and checks whether or not the control program exists in the server. Here, the period can be set to a particular hour each day, every hour, three times per week, or any other desired interval. If it is determined that the set period has been reached, the television set is connected to the server through the Internet, step (S215).”

The Cohen patent is limited to a teaching of manually importing a new menu database from the Internet. (Column 14, lines 8 – 12). Thus, in the Cohen patent, the teaching is limited to importing the new database based on user selection of a menu item. The Cohen patent provides no teaching or suggestion of determining whether a new control menu exists by accessing the Internet according to a set period. Specifically, Cohen provides no teaching or suggestion of accessing the Internet at a predetermined interval (i.e., the “set period”) to determine whether a new control menu exists.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 10, 18, 20, 26 and 27. Claims 2-6, 11-13, 21, 22 and 28 are believed allowable for at least the same reasons as presented above with respect to claims 1, 10, 18, 20, 26 and 27 by virtue of their respective dependence from claims 1, 10, 18, 20, 26 and 27.

The Cohen Patent Does Not Teach Or Suggest Performing a First Download of New Control Menu and Performing a Second Download of One or More Corresponding New Control Programs Using the Added New Control Menu

Independent claims 1, 10, 18, 20, 26 and 27 have been amended to specifically require performing a *first download of a new control menu*, if a determination is made that such new control menu exists, adding the new control menu to a corresponding control menu list and a *second download of one or more corresponding new control programs using the new control menu* (Emphasis added to show distinguishing features). Thus, all of the current independent claims require two separate download procedures; a first download for the new control menu followed by implementation of the new control menu and a second download for one or more new control programs found in the newly implemented control menu.

The present invention allows for a new control menu to be downloaded prior to downloading new control programs associated with the new control menu. In many instances, home network equipment may have limited memory capacity and, as such, may not be capable of storing all of the control programs that are available. Thus, one of the novel features of the present invention provides for the equipment user to choose from the control menu which new control programs are desired prior to performing the download operation. In other aspects, the user may select an auto-mode, which will automatically download the new control programs. In the auto-mode aspect, the user may be aware of required memory capacity for a specific piece of equipment and/or may desire the ability to execute a chosen program in an expedited manner, without having to perform the download at the same time execution of program is desired. However, it should be noted that in either instance two separate download procedures occur. In the first instance, the user selects the control programs, which they desire to be downloaded and in the second instance the new control programs are downloaded automatically after the new control menu has been previously downloaded.

In other embodiments of the invention, as described in the specification, the control menu and the control programs may be downloaded simultaneously. However, those embodiments in which the control menu and programs are simultaneously downloaded do not allow for the user

to choose which programs to download or allow for the user to select an auto-mode. In this regard, those embodiments in which the control menu and programs are simultaneously downloaded, do not take into account the fact that some of the equipment in the home network may have limited memory capacity that does not provide for the storage of a high quantity and/or unlimited control programs. The Examiner will note that those embodiments in which the control menu and programs are simultaneously downloaded have been cancelled from the pending application.

In the current Office Action at page 3, lines 2-6, the Cohen patent is relied on for a teaching of downloading the new control menu, adding the downloaded new control menu to a corresponding control menu list and downloading the corresponding control programs using the added new control menu. Reference in the Office Action is made to the Cohen patent at column 14, lines 8-12, the Abstract, claim 1 and column 8, lines 25-39. However, the Cohen patent is limited to a teaching of, “Selecting menu item 35c enables the user to import a new menu from a memory storage device ...from the Internet” (Cohen, column 14, lines 8-12). In the Cohen teachings the new menu database, including any programs associated with the new menu, are downloaded in one process. Additionally, the menu item 35c described in Cohen at column 14, lines 8-12 is not equivalent to the “the added new control menu(s)” of Claims 1, 10, 18, 20, 26 and 27 of the present invention, but rather an existing menu item from the “Menu Manager function” (Cohen, column 13, lines 66-67). Cohen is limited to the teaching of using an existing menu, as opposed to the present invention, which uses a newly downloaded control menu to subsequently download control programs.

In rejecting a similar argument in the previous Office Action response, the Examiner noted that the claims did not explicitly define two separate downloading steps. As noted, all of the independent claims have been amended to explicitly require two separate and distinct downloading steps.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 10, 18, 20, 26 and 27. Claims 2-6, 11-13, 21, 22 and 28 are believed allowable for at least the same reasons as presented above with respect to claims 1,

10, 18, 20, 26 and 27 by virtue of their respective dependence from claims 1, 10, 18, 20, 26 and 27.

Conclusion

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and a Notice to that effect is earnestly solicited. Should any questions remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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